

REMARKS

Claims 1-36 are pending and rejected. Claims 10, 13, 22, 26, and 32 are amended. Claims 1-9, 12, 23, and 33 are canceled without prejudice.

Applicant thanks the Examiner for the courtesy of a personal interview on August 31, 2005 with his undersigned representative. The pending claims and the applied references were discussed. Applicant notes the Examiner's suggestions from the Interview Summary were to insert the limitation of a replacement intraocular lens of claims 17 and 22 into claim 1. However, applicant notes that claim 17 recites a method where the composition is inserted into a lens capsule. Thus, the Examiner's suggestion, as applicant understands it, is not tenable. If applicant has misunderstood, the Examiner's guidance would be appreciated.

Composition claims 1-9 are canceled without prejudice. Article claims are amended to recite agent concentrations. Method claims are amended to clarify the process.

Applicant respectfully requests reconsideration for the following reasons.

OATH/DECLARATION, AFFIDAVIT/DECLARATION

The marking on the signature line of each of the above documents as filed is the applicant's signature. Therefore, the documents are not defective because they are signed.

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DOUBLE PATENTING

Claims 1-36 are provisionally rejected for obvious-type double patenting over claims 1-34 in copending application Serial No. 10/752,124 in view of Ueno 6,872,383. Applicant respectfully disagrees. The instant claims recite methods to irrigate or replace volume in an eye and specific articles containing agent at defined concentration; composition claims have been canceled without prejudice. Claims in co-pending application Serial No. 10/752,124 have been amended, still further distinguishing the instant methods and articles from treatment of specific diseases as claimed in application Serial No. 10/752,124. For at least this reason, applicant respectfully asserts this rejection is overcome and requests its withdrawal. Should the Examiner maintain this provisional rejection, applicant respectfully requests deferral pending allowable claims.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 1-21 are rejected under 35 U.S.C. §103(a) as obvious over Ueno 6,872,383 in view of Kaswan. Applicant respectfully disagrees.

Claims 1-9 are canceled without prejudice, rendering this objection moot with respect to these claims.

With respect to claims 10-16, the claims are amended to recite use of the solution for irrigation, wash, or volume replacement. Ueno does not teach, suggest, or motivate these uses. Kaswan does not cure the deficiency because Kaswan discloses administration only by drops to the surface of an eye or encapsulation in an implant, liposomes, or microcapsule. Contrary to the

Examiner's position, one skilled in the art recognizes that neither Ueno nor Kaswan's solutions serve the same purpose. At reason one reason for the distinction is that the solutions in the cited references must be dosed, which involves at least providing a concentration over a certain duration. In contrast, the claimed method do not dose solutions but rather use them at the volume and time necessary for irrigation, vitreous replacement, or washing the surgical site.

With respect to claims 17-21, applicant notes the Action does not state a reason for the rejection. In an effort to completely reply to the Action despite this deficiency, applicant respectfully disputes that Ueno in view of Kaswan renders obvious a method where the claimed agent is provided "within a lens capsule prior to insertion of a replacement intraocular lens". Neither Ueno nor Kaswan teach, disclose, or suggest providing agent within a lens capsule.

Claims 22-36 are rejected under 35 USC §103(a) as obvious over Ueno in view of Tusé. Applicant respectfully disagrees and refers to his previous analysis distinguishing Ueno. Tuse discloses a solution for a contact lens, which is not implanted. In contrast, the claims recite a solution for an intraocular lens, which is implantable in a surgical procedure. One skilled in the art would not be taught, motivated, or suggested, nor would there be a reasonable expectation of success, to modify a contact lens to implant it in the eye in a surgical procedure.

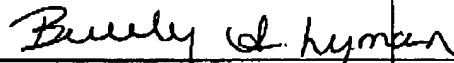
CONCLUSION

Applicant does not believe there is any fee due with this submission. Should any fees or surcharges be deemed necessary, the Examiner has authorization to charge fees or credit any overpayment to Deposit Account No. 23-3000.

The Examiner is invited to telephone applicant's undersigned representative with any questions or issues.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.



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